

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

ANTONIO FREEMAN)
)
 v.) NO. 3:10-0071
)
 BOBBY HARRIS and)
 GALLATIN POLICE DEPARTMENT)

ORDER

The defendants' motion (Docket Entry No. 100) for leave to take the deposition of the prisoner plaintiff in this action is GRANTED.

In accordance with Rule 30(a)(2)(A)(ii) and Rule 30(a)(2)(B) of the Federal Rules of Civil Procedure, leave of the Court is granted to the defendants to take the remaining portion of the prisoner plaintiff's deposition. The defendants shall properly notice the plaintiff of the impending deposition as required by Rule 30(b).

The plaintiff is ORDERED to allow his deposition to be taken as set out herein. The deposition may take place with security personnel present.

The plaintiff is advised that his failure to appear for the deposition, or his refusal to answer questions at the deposition, may result in sanctions being imposed against him, including dismissal of his action or a limitation on the evidence he is allowed to present at any hearing in Court.

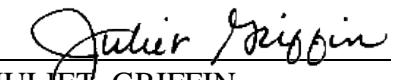
The plaintiff is further advised that, while the concept of due process may include an inherent right to retain counsel in a civil proceeding if a party so chooses and has retained counsel, Powell v. Alabama, 287 U.S. 45, 68-69 (1932), Potashnick v. Port City Construction Co., 609 F.2d 1101, 1118 (5th Cir. 1980), a plaintiff proceeding in forma pauperis and/or pro se has no general constitutional or statutory right to have counsel appointed to represent him in a civil case when he

cannot afford to retain counsel. Lassiter v. Department of Social Services, 452 U.S. 18, 25-27 (1981). The plaintiff is advised that he cannot refuse to answer questions at the deposition because he is not represented by counsel in this action.

The plaintiff is further advised that he may not be aided or assisted at such deposition by an inmate legal helper [a so-called "jailhouse lawyer"].

Any party desiring to appeal this Order may do so by filing a motion for review no later than fourteen (14) days from the date this Order is served upon the party. The motion for review must be accompanied by a brief or other pertinent documents to apprise the District Judge of the basis for appeal. See Rule 72.02(b) of the Local Rules of Court.

So ORDERED.



JULIET GRIFFIN
United States Magistrate Judge